

Case No. 4380 US

08/968,208

#419

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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PETITIONS OFFICE

In re Application of

Russell Higuchi

Serial No.: 08/968,208

Filed: November 12, 1997

For: **HOMOGENEOUS METHODS FOR
NUCLEIC ACID AMPLIFICATION
AND DETECTION**

Group Art Unit: 1743

Examiner: J. Snay

Box DAC

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

CERTIFICATE FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted
via facsimile to the U.S. Patent and Trademark Office at fax
no. (703) 308-6916 on the date indicated belowDate of Transmission: July 15, 2003Signature: Desi InnocencioPrint Name: Desi Innocencio

Sir:

Applicant submits herewith patents, publications or other information (listed on the attached Substitute Form PTO-1449A) which may be material to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 CFR §1.56.

Copies of the cited references will be furnished separately. Cite No. 35 will be provided when it becomes available to the Applicant.

Cite Nos. 21-36 on the attached Substitute Form PTO-1449A correspond to patents, publications or other information not already of record in the above-captioned application that were brought to the attention of the European Patent Office (EPO) by five Opponents opposing a European counterpart to the above-captioned application (European Patent EP 0 872 562) in an Opposition Proceeding. Patents, publications or other information cited by the Opponents that were already of record in the above-captioned application are not repeated on the Form.

Cite Nos. 37 and 39-42 are copies of the opposition briefs submitted to the EPO by the various Opponents. Cite No. 38 is an Annex (Annex 2) from Cite No. 37.

Two of the citations, Cite Nos. 34 and 35, which relate to a Fluorolog-2 Spectrofluorometer by SPEX Industries, do not include a date. The Opponent citing these documents to the EPO did not include the date of publication. The use of a Fluorolog-2

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08/968,208

Spectrofluorometer to record fluorescence signals is mentioned in the above-captioned application at, for example, Example VII (page 28, lines 1-22) and Example VIII (page 28, line 23 through page 29, line 35).

While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 CFR §1.56, it is not intended to constitute an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR §1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR §1.56(a) exists. It is submitted that the Information Disclosure Statement is in compliance with 37 CFR §1.98 and MPEP §609 and the Examiner is respectfully requested to consider the listed references.

This Information Disclosure Statement accompanies a Request for Continued Examination (RCE) under 37 CFR § 1.114. It is therefore being filed before the mailing date of a first Office Action after the filing of the RCE and, consequently, no fees are believed due. However, the Commissioner is authorized to take any required fees from Applied Biosystems Deposit Account No. 01-2213 (Order No. 4380US).

Respectfully submitted,

Date: July 15, 2003
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